IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5524 OF 2003

Imtiyaz Abdul Sattar Khanapuri .. Petitioner

V/s

Union of India & Ors. .. Respondents

Mr.A.S. Khandeparkar for the petitioner.

Mr.O.S. Kutti for respondent No.2.

CORAM : H.L. GOKHALE &
SMT.NISHITA MHATRE, JJ.

DATE : 29TH SEPTEMBER 2004

P.C. :

1. Heard Mr.Khandeparkar for the petitioner and Mr.Kutti for respondent No.2.

2. A grievance is made in this petition with respect to the allotment of the work concerning the FMCG product (Fast Moving Consumable Goods) through a bid to respondent No.3. This work order has been issued by respondent No.2 on 22nd October 2003 and is under challenge. It has been submitted that the decision is an arbitrary one and not justified on merits, etc. A reply has been filed by one Mr.K.K. Chaubey, Assistant General Manager (Legal) of respondent No.2. It has been

pointed out in this reply that even under the tender document, there was an arbitration clause bearing No.11 which provided that any dispute or difference arising out of the order in connection with this tender will be settled through arbitration. Reliance is also placed on a Division Bench order of the Nagpur Bench in Writ Petition No.4083 of 2002 passed on 10th April 2002 stating that parties must resort to this clause. That apart, the work order has also been issued in October 2003 and in the reply it has been stated earlier on 6th December 2003 and again through another reply on 28th September 2004 that the Technical Evaluation Committee has considered the claim of the petitioner and then rejected the same. They were of the view that the petitioner was dealing only with Konkan Railway tickets. Mr.Khandeparkar joins this issue saying that the petitioner had much more wider experience. That apart, this is a decision on merit. The work order is already issued and we do not think that any purpose will be served by interfering at this late stage. This is apart from the fact that as such there is nothing malafide or erroneous in the decision. Mr.Kutti, learned counsel for respondent No.2, states that the policy is now changing and at the end of 2 years a new policy will be floated and the petitioner may apply thereunder.

3. In view of the above, the petition is rejected.

(H.L. GOKHALE, J.)

(SMT. NISHITA MHATRE J.)